



The Senate Amendment to H.R. 5501 – Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008

EXECUTIVE SUMMARY

The House is expected to consider the Senate amendment to H.R. 5501 on the floor on July 24, 2008. The House passed their version of H.R. 5501 on April 2, 2008, by a vote of 308-116, and the Senate passed the Senate Amendment to H.R. 5501 on July 16, 2008, by a vote of 80-16.

This legislation authorizes \$48 billion for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009-2013 and \$2 billion for Indian health care, law enforcement, and drinking water programs for fiscal years 2009-2013. The bill requires the Coordinator to provide balanced funding for prevention activities for sexual transmission HIV/AIDS and requires that one-half of the amounts appropriated for bilateral global HIV/AIDS assistance should be used for treatment and care of individuals with HIV/AIDS. The bill also strengthens the existing conscience clause by clarifying that groups receiving funds are not required to endorse, utilize, or refer for any activities or programs that they find morally or religiously objectionable.

The bill does not include House passed language that would have authorized HIV/AIDS services at family planning programs that receive U.S. Government family planning funding, specifically excluding funding for programs that provide abortions. Without explicit restrictions on cooperation with family planning groups that provide abortions, the next Administration could overturn the current Executive Order and allow the U.S. to fund these programs. In addition, the bill includes a provision that would lift the United States travel restriction on HIV positive foreign nationals.

The Administration and Committee Ranking Member Ileana Ros-Lehtinen (R-FL) support the passage of the bill. The Congressional Budget Office has not scored the current version of this legislation.

FLOOR SITUATION

The Senate Amendment to H.R. 5501 is being considered on the floor under a closed rule. The Rule:

- Provides for the consideration of the Senate Amendment to H.R. 5501.
- Makes in order a motion by the chairman of the Committee on Foreign Affairs to concur in the Senate amendment.
- Waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI.
- Provides that the Senate amendment and the motion shall be considered as read.
- Provides one hour of debate on the motion equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

This legislation was introduced by Representative Howard Berman (D-CA) on February 27, 2008. The bill was reported by the Committee on Foreign Affairs on March 10, 2008, by voice vote. The House passed the bill by a vote of 308-116 on April 2, 2008, and the Senate passed an amended version of H.R. 5501 by a vote of 80-16 on July 16, 2008.



LEGISLATIVE DIGEST

HOUSE REPUBLICAN CONFERENCE | CHAIRMAN ADAM PUTNAM

1420 LONGWORTH HOB, WASHINGTON, DC 20515

www.GOP.gov

PHONE 202.225.5107

FAX 202.226.0154

H.R. 5501 is expected to be considered on the House floor on July 24, 2008.

BACKGROUND

In his 2003 State of the Union Address, President George W. Bush announced the President's Emergency Plan for AIDS Relief (PEPFAR) and requested that Congress appropriate \$15 billion to "turn the tide against AIDS in the most afflicted nations." Congress passed the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. 108-25), which provided the largest commitment to an international health initiative by a single nation.

According to the latest results on PEPFAR's website (www.pepfar.gov), the Emergency Plan has supported antiretroviral treatment for approximately 1.73 million individuals globally. In addition, PEPFAR funding has supported the prevention of mother-to-child HIV transmission services for women during more than 12.7 million pregnancies, prevented an estimated 194,000 infant infections, as well as provided care for more than 6.6 million individuals, including 2.7 million orphans and vulnerable children.

On May 30, 2007, President Bush announced a five-year, \$30 billion plan to continue America's commitment to fighting HIV/AIDS around the world. The President's plan focuses on continuing support for current PEPFAR initiatives and strengthening health systems in order to transition from an emergency plan to one that can provide sustainable treatment, prevention, and care. ([White House Fact Sheet on HIV/AIDS Plan](#))

The House passed the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (H.R. 5501) by a vote of [308-116](#) on April 2, 2008. H.R. 5501, as passed by the House, authorizes \$50 billion over five years for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009 to 2013. In addition, the bill adds Vietnam and 14 Caribbean nations to the list of PEPFAR focus countries. The bill strengthens the "conscience clause" by clarifying that groups receiving funds are not required to endorse or utilize any activities of programs that they find morally or religiously objectionable and contains a provision that authorizes the provision of HIV/AIDS services only at family planning programs that receive U.S. Government family planning funding.

On July 16, 2008, the Senate approved an amended version of H.R. 5501 by a vote of [80-16](#). The Senate passed bill reduces the authorization for HIV/AIDS, tuberculosis, and malaria programs from \$50 billion to \$48 billion, while authorizing an additional \$2 billion for an Emergency Plan for Indian security and health care. In addition, the bill includes a provision that would lift the United States travel restriction on HIV positive foreign nationals.

SUMMARY

The Senate Amendment to H.R. 5501 (referred to as H.R. 5501 below) authorizes \$48 billion for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009 to 2013 and \$2 billion for Indian health care, law enforcement, and drinking water programs for fiscal years 2009-2013.

Title I – Policy Planning and Coordination

Development of a Comprehensive, Five-Year, Global Strategy: H.R. 5501 directs the President to expand the prevention strategies to include the reduction of behavioral risks associated with HIV/AIDS, including promoting abstinence, encouraging delay of sexual debut, monogamy, fidelity, and partner reduction, and promoting the effective use of male and female condoms. In addition, it requires the President to include specific plans for linkage to organizations that provide a variety of public services, including food and nutrition support, child health services, and HIV/AIDS education.



Interagency Working Group: The bill establishes the interagency working group on HIV/AIDS, which will be headed by the Global AIDS Coordinator and be comprised of representatives from USAID and the Department of Health and Human Services.

Title II – Support for Multilateral Funds, Programs, and Public-Private Partnerships

Participation in the Global Fund: H.R. 5501 authorizes \$2 billion for fiscal years 2009 and such sums as necessary for fiscal years 2010 to 2013.

- The bill states that U.S. support for the Global Fund should be based on transparency and accountability benchmarks, including that a well-staffed independent office of Inspector General report to the Fund Board and the Fund Secretariat establishes a database that tracks funds that have been disbursed and the distribution of resources. The bill also includes a Sense of the Senate that the Global Fund should not support activities involving the Affordable Medicines Facility-Malaria until the initiative is shown to be effective.
- In addition, it mandates the withholding of 20 percent of the United States contribution to the Global Fund if the Global Fund fails to meet certain transparency benchmarks, consistent with Section 625 of the Consolidated Appropriations Act, 2008 (P.L. 110-161).

Duties on Goods and Services: The bill states that it is the policy of the United States that countries should not impose taxes or tariffs on goods or services that are provided by the Global Fund.

Sudan: Consistent with current law, H.R. 5501 allows the President to provide assistance for marginalized areas of Sudan including Southern Sudan, southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify a waiver of the prohibition of assistance to a State Sponsor of Terrorism.

Microbicide Availability: H.R. 5501 authorizes the U.S. Agency for International Development in coordination with the Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally to develop and implement a program to facilitate the availability of microbicides that prevent the transmission of HIV after microbicides are proven safe and effective.

Vaccine Development: The bill allows public-private partnerships to be utilized by the Administrator of USAID to collect and review data that could lead to the development of vaccines for HIV, TB, or Malaria and provides market incentives toward that end.

Title III – Bilateral Efforts

Subtitle A – General Assistance and Programs

HIV/AIDS Policy: H.R. 5501 sets forth the policy of the United States to prevent 12 million new HIV infections worldwide, support treatment of at least 3 million individuals with HIV/AIDS with the goal of treating 450,000 children, provide care for 12 million individuals affected by HIV/AIDS, including 5 million orphans and vulnerable children, support care and treatment for children in proportion to their percentage within the HIV-infected population in a given partner country, train at least 140,000 new health care professionals and workers for HIV/AIDS prevention, treatment, and care, and help countries achieve staffing levels of at least 2.3 doctors, nurses, and midwives per 1,000 individuals, as called for by the World Health Organization, by 2013.

Food Security: The bill states that it is the policy of the United States to fully integrate food and nutrition support into HIV/AIDS prevention, treatment, and care programs. It requires the Coordinator, where feasible, to ensure that people enrolled in treatment programs have access to a nutritional assessment and nutritional counseling.



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1420 LONGWORTH HOB, WASHINGTON, DC 20515

www.GOP.gov

PHONE 202.225.5107

FAX 202.226.0154

Family Planning Programs: The Senate bill does not include House passed language that would have authorized HIV/AIDS services at family planning programs that receive U.S. Government family planning funding, specifically excluding funding for family planning programs that provide abortions due to an Executive Order. Without explicit restrictions on cooperation with family planning programs that provide abortions, the next Administration could overturn the current Executive Order and allow the U.S. to fund these programs. The 2003 law was also silent on the family planning issue.

Conscience Clause: H.R. 5501 strengthens the existing conscience clause by clarifying that groups receiving funds are not required to endorse, utilize, or refer for any activities or programs that they find morally or religiously objectionable.

Tuberculosis (TB): H.R. 5501 sets the goals of reducing by one-half the tuberculosis death and disease burden from the 1990 baseline; sustaining or exceeding the detection of at least 70 percent of sputum smear-positive cases to TB; and curing at least 85 percent of detected TB cases by December 31, 2015. It also allows for priority to be given to activities described in the World Health Organization's "Stop TB Strategy."

**Note: This provision includes the language of the Stop TB Now Act (H.R. 1567) which passed the House by voice vote under suspension of the rules on November 5, 2007. The full Senate has not considered H.R. 1567 or related legislation. ([Legislative Digest for H.R. 1567](#))*

Malaria: H.R. 5501 requires the President to establish a comprehensive, five-year strategy to combat global malaria and creates a Coordinator of United States Government Activities to Combat Malaria Globally within the USAID.

Visas: The bill removes the provision of the Immigration and Nationality Act that bars individuals who are HIV positive from receiving a U.S. visa.

Subtitle B – Assistance for Women, Children, and Families

Goals: H.R. 5501 establishes a target for prevention and treatment of mother-to-child transmission of HIV that will reach at least 80 percent of pregnant women in countries most affected by HIV/AIDS and a target requiring that children represent a percentage in proportion to their number within the population of persons infected are receiving care and treatment by 2013. In addition, the bill sets a goal of preventing 12 million new HIV infections worldwide by pursuing a strategy that addresses the needs vulnerabilities of women and youth to HIV infection and seeks to reduce the factors that lead to gender disparities in the rate of HIV infection.

TITLE IV – Authorization of Appropriations

Funding Allocation: H.R. 5501 authorizes \$48 billion over five years for PEPFAR. The bill requires that one-half of the amounts appropriated for bilateral global HIV/AIDS assistance should be used for treatment and care of individuals with HIV/AIDS.

Balanced Funding: H.R. 5501 requires the Coordinator to provide balanced funding for prevention activities for sexual transmission of HIV/AIDS. It also ensures that activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction are funded in a "meaningful and equitable way." In addition, the bill requires the Coordinator to establish a HIV sexual transmission prevention strategy in each host country with a generalized epidemic and provide justification to Congress in the form of a report if less than 50 percent of prevention funds in a given country are used for activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction.

**Note: Current law includes a one-third funding directive for "abstinence until marriage" programs. According to Foreign Relations Committee Republicans, the Senate modification is a*



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welcomed addition because it clarifies the House compromise by excluding other behavior change programs, such as condoms promotion from counting toward the 50 percent threshold.

TITLE V – Miscellaneous

Visa Fee: The bill increases the fee for processing machine readable nonimmigrant visas and border crossing identification cards and nonimmigrant visas by \$1 beginning on October 1, 2010, and by \$2 by October 1, 2013.

**Note: According to Committee Republicans, this provision is intended to be an offset for the lifting of visa restrictions.*

TITLE VI – Emergency Plan for Indian Safety and Health

Fund: The bill establishes a \$2 billion Emergency Fund for Indian Safety and Health within the U.S. Department of Treasury.

Plan: H.R. 5501 requires the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services to consult with Indian tribes to establish an emergency plan that addresses law enforcement, water and health care needs of Indian tribes.

ADDITIONAL VIEWS

According to the Statement of Administration Policy for the Senate-passed bill, “The Emergency Plan is creating strong partnerships and allies in countries where five years ago AIDS threatened to destroy entire generations. Congress and the American people should be proud of this compassionate program, which is bringing hope and healing to millions of people around the world. The Administration strongly supports S. 2731, the Tom Lantos and Henry J. Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008.” ([SAP for S. 2731](#))

**Note: The Senate substituted the text of S. 2731 for the text of H.R. 5501 and passed the bill under the House number.*

“Millions around the world now depend on our country’s willingness to be a partner in the battle to halt this deadly pandemic. Senate passage of the Lantos-Hyde Act brings us a step closer to achieving an important milestone in U.S. policy toward the world’s most vulnerable people. It does honor to our country that five years ago we undertook this mission of true mercy. We are fortunate to have the opportunity to reaffirm that commitment again. Endless numbers of children have already been orphaned and deprived of the protection and love of their parents because of AIDS, TB, and malaria. We cannot make their world whole again, but there is much we can do to comfort and care for them and to prevent others from suffering the same fate. We look forward to sending this measure to the President for signature before the end of this month.” – *Ranking Republican Ileana Ros-Lehtinen (R-FL)*

COST

The Congressional Budget Office (CBO) has not scored the most recent of version of H.R. 5501. However, prior to the Senate consideration of the bill, CBO scored the version of the bill that was reported by the Senate Committee on Foreign Relations. This is the most recent cost estimate for the bill, “CBO estimates that implementing S. 2731 would cost \$35 billion over the 2009-2013 period, assuming appropriation of the authorized amounts. (Additional amounts would be spent after 2013.)” ([CBO Score for S. 2731, April 11, 2008](#))

STAFF CONTACT

For questions or further information contact Brianne Miller at (202) 226-2302.